

AMENDED IN ASSEMBLY JUNE 14, 2011

AMENDED IN SENATE MAY 18, 2011

AMENDED IN SENATE MAY 3, 2011

AMENDED IN SENATE APRIL 25, 2011

AMENDED IN SENATE MARCH 15, 2011

SENATE BILL

No. 244

Introduced by Senator Wolk
(Coauthors: Senators Price and Rubio)
(Coauthor: Assembly Member Perea)

February 10, 2011

An act to amend Sections ~~56425~~ 56375, 56425, and 56430 of, and to add Sections 56033.5 and 65302.10 to, the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 244, as amended, Wolk. Land use: general plan: disadvantaged unincorporated communities.

(1) The Planning and Zoning Law requires a city or county to adopt a comprehensive, long-term general plan for the physical development of the city or county and of any land outside its boundaries that bears relation to its planning. That law also requires the general plan to contain specified mandatory elements, including a housing element for the preservation, improvement, and development of the community's housing.

This bill would require, upon the next revision of its housing element, and each revision thereafter, a city or county to review and update one or more elements of its general plan, as necessary, to ~~address~~ *include*

an analysis of the presence of island, fringe, or legacy unincorporated communities, as defined, inside or near its boundaries, and would require the updated general plan to include specified information. This bill would also require the city or county planning agency, after the initial revision and update of the general plan, to review, and if necessary amend, the general plan to update the information, goals, and program of action relating to these communities therein. By adding to the duties of city and county officials, this bill would impose a state-mandated local program.

(2) The Cortese-Knox-Hertzberg Act of 2000 requires a local agency formation commission to develop and determine the sphere of influence of each local governmental agency within the county and to enact policies designed to promote the logical and orderly development of areas within the sphere, and requires the commission, in preparing and updating spheres of influence to conduct a service review of the municipal services provided in the county or other area designated by the commission, and to prepare a written statement of its determinations with respect to the growth and population projections for the affected area, the present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies, financial ability of agencies to provide services, status of, and opportunities for, shared facilities, accountability for community service needs, including governmental structure, and operational efficiencies, as specified.

This bill would also require the agency to include in its written statement a determination with respect to the location and characteristics; ~~including infrastructure needs or deficiencies and the present and planned capacity of public facilities and adequacy of public services, including sewers, water, and structural fire protection needs or deficiencies,~~ of any disadvantaged inhabited communities within or adjacent to the sphere of influence, thereby imposing a state-mandated local program. The bill would also require a commission, upon the review and update of a sphere of influence on or after July 1, 2012, to include in the review or update of each sphere of influence of a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structural fire protection to include the present and probable need for public facilities and services of disadvantaged inhabited communities within or adjacent to the sphere of influence, and would authorize the agency to assess the feasibility of governmental reorganization of particular agencies, as specified.

(3) *Existing law sets forth the various powers and duties of a local agency formation commission in reviewing and approving or disapproving proposals for changes of organization or reorganization.*

This bill would revise the powers of the commission to prohibit it from approving an annexation to a city of any territory where there exists a disadvantaged inhabited community that is contiguous to the area of proposed annexation, unless the annexation application includes a separate application to annex the disadvantaged unincorporated inhabited territory to the subject city.

~~(3)~~

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares all of the
2 following:

3 (1) Hundreds of disadvantaged unincorporated communities,
4 commonly referred to as “colonias,” exist in California. There are
5 more than 200 of these communities in the San Joaquin Valley
6 alone. Many of these communities are geographically isolated
7 islands, surrounded by the city limits of large and medium-sized
8 cities.

9 (2) Conditions within these disadvantaged unincorporated
10 communities evidence a distinct lack of public and private
11 investment that threatens the health and safety of the residents of
12 these communities and fosters economic, social, and educational
13 inequality. Many of these communities lack basic infrastructure,
14 including, but not limited to, streets, sidewalks, storm drainage,
15 clean drinking water, and adequate sewer service.

16 (3) The Clean Water State Revolving Fund, the Safe Drinking
17 Water State Revolving Fund, the Clean up and Abatement Account,
18 and the Community Development Block Grant are robust and
19 continuous sources of funding for drinking water, wastewater, and
20 other basic infrastructure.

1 (b) It is the intent of the Legislature to encourage investment in
2 these communities and address the complex legal, financial, and
3 political barriers that contribute to regional inequity and
4 infrastructure deficits within disadvantaged unincorporated
5 communities.

6 SEC. 2. Section 56033.5 is added to the Government Code, to
7 read:

8 56033.5. “Disadvantaged inhabited community” means
9 inhabited territory, as defined by Section 56046, or as determined
10 by commission policy, that constitutes all or a portion of a
11 “disadvantaged community” as defined by Section 79505.5 of the
12 Water Code.

13 SEC. 3. Section 56425 of the Government Code is amended
14 to read:

15 56425. (a) In order to carry out its purposes and responsibilities
16 for planning and shaping the logical and orderly development and
17 coordination of local governmental agencies to advantageously
18 provide for the present and future needs of the county and its
19 communities, the commission shall develop and determine the
20 sphere of influence of each local governmental agency within the
21 county and enact policies designed to promote the logical and
22 orderly development of areas within the sphere.

23 (b) Prior to a city submitting an application to the commission
24 to update its sphere of influence, representatives from the city and
25 representatives from the county shall meet to discuss the proposed
26 new boundaries of the sphere and explore methods to reach
27 agreement on development standards and planning and zoning
28 requirements within the sphere to ensure that development within
29 the sphere occurs in a manner that reflects the concerns of the
30 affected city and is accomplished in a manner that promotes the
31 logical and orderly development of areas within the sphere. If an
32 agreement is reached between the city and county, the city shall
33 forward the agreement in writing to the commission, along with
34 the application to update the sphere of influence. The commission
35 shall consider and adopt a sphere of influence for the city consistent
36 with the policies adopted by the commission pursuant to this
37 section, and the commission shall give great weight to the
38 agreement to the extent that it is consistent with commission
39 policies in its final determination of the city sphere.

1 (c) If the commission's final determination is consistent with
2 the agreement reached between the city and county pursuant to
3 subdivision (b), the agreement shall be adopted by both the city
4 and county after a noticed public hearing. Once the agreement has
5 been adopted by the affected local agencies and their respective
6 general plans reflect that agreement, then any development
7 approved by the county within the sphere shall be consistent with
8 the terms of that agreement.

9 (d) If no agreement is reached pursuant to subdivision (b), the
10 application may be submitted to the commission and the
11 commission shall consider a sphere of influence for the city
12 consistent with the policies adopted by the commission pursuant
13 to this section.

14 (e) In determining the sphere of influence of each local agency,
15 the commission shall consider and prepare a written statement of
16 its determinations with respect to each of the following:

17 (1) The present and planned land uses in the area, including
18 agricultural and open-space lands.

19 (2) The present and probable need for public facilities and
20 services in the area. Upon the next ~~review and~~ update of a sphere
21 of influence that occurs pursuant to subdivision (g) on or after July
22 1, 2012, the ~~review and~~ update of each sphere of influence of a
23 city or special district that provides public facilities or services
24 related to sewers, municipal and industrial water, or structural fire
25 protection shall include the present and probable need for public
26 facilities and services of any disadvantaged inhabited communities
27 ~~within or adjacent to its~~ *contiguous to the existing or proposed*
28 *sphere of influence of the subject city or special district.*

29 (3) The present capacity of public facilities and adequacy of
30 public services that the agency provides or is authorized to provide.

31 (4) The existence of any social or economic communities of
32 interest in the area if the commission determines that they are
33 relevant to the agency.

34 (f) Upon determination of a sphere of influence, the commission
35 shall adopt that sphere.

36 (g) On or before January 1, 2008, and every five years thereafter,
37 the commission shall, as necessary, review and update each sphere
38 of influence.

39 (h) In determining the sphere of influence, the commission may
40 assess the feasibility of governmental reorganization of particular

1 agencies and recommend reorganization of those agencies when
2 they are found to be feasible and if reorganization will further the
3 goals of orderly development as well as efficient and affordable
4 service delivery. The commission shall make all reasonable efforts
5 to ensure wide public dissemination of the recommendations.

6 (i) When adopting, amending, or updating a sphere of influence
7 for a special district, the commission shall do all of the following:

8 (1) Require existing districts to file written statements with the
9 commission specifying the functions or classes of services provided
10 by those districts.

11 (2) Establish the nature, location, and extent of any functions
12 or classes of services provided by existing districts.

13 SEC. 4. Section 56430 of the Government Code is amended
14 to read:

15 56430. (a) In order to prepare and to update spheres of
16 influence in accordance with Section 56425, the commission shall
17 conduct a service review of the municipal services provided in the
18 county or other appropriate area designated by the commission.
19 The commission shall include in the area designated for service
20 review the county, the region, the subregion, or any other
21 geographic area as is appropriate for an analysis of the service or
22 services to be reviewed, and shall prepare a written statement of
23 its determinations with respect to each of the following:

24 (1) Growth and population projections for the affected area.

25 (2) The location and characteristics of any disadvantaged
26 inhabited communities.

27 (3) Present and planned capacity of public facilities and
28 adequacy of public services, including ~~infrastructure needs or~~
29 ~~deficiencies, with attention to~~ sewers, municipal and industrial
30 water, and structural fire protection needs or deficiencies of
31 disadvantaged, unincorporated communities within or ~~adjacent~~
32 *contiguous* to the agency's proposed sphere of influence.

33 (4) Financial ability of agencies to provide services.

34 (5) Status of, and opportunities for, shared facilities.

35 (6) Accountability for community service needs, including
36 governmental structure and operational efficiencies.

37 (7) Any other matter related to effective or efficient service
38 delivery, as required by commission policy.

39 (b) In conducting a service review, the commission shall
40 comprehensively review all of the agencies that provide the

1 identified service or services within the designated geographic
2 area. The commission ~~shall~~ *may* assess various alternatives for
3 improving efficiency and affordability of infrastructure and service
4 delivery within and ~~adjacent~~ *contiguous* to the sphere of influence,
5 including, but not limited to, the consolidation of governmental
6 agencies.

7 (c) The commission shall conduct a service review before, or
8 in conjunction with, but no later than the time it is considering an
9 action to establish a sphere of influence in accordance with Section
10 56425 or Section 56426.5 or to update a sphere of influence
11 pursuant to Section 56425.

12 SEC. 5. Section 65302.10 is added to the Government Code,
13 to read:

14 65302.10. (a) As used in this section, the following terms shall
15 have the following meanings:

16 (1) *“Community” means an inhabited area within a city or*
17 *county that is comprised of no less than ____ dwellings adjacent*
18 *or in close proximity to one another.*

19 ~~(1)~~

20 (2) *“Disadvantaged unincorporated community” means a fringe,*
21 *island, or legacy community in which the median household*
22 *income is 80 percent or less than the statewide median household*
23 *income.*

24 ~~(2)~~

25 (3) *“Unincorporated fringe community” means any inhabited*
26 *and unincorporated territory that is within a city’s sphere of*
27 *influence.*

28 ~~(3)~~

29 (4) *“Unincorporated island community” means any inhabited*
30 *and unincorporated territory that is surrounded or substantially*
31 *surrounded by one or more cities or by one or more cities and a*
32 *county boundary or the Pacific Ocean.*

33 ~~(4)~~

34 (5) *“Unincorporated legacy community” means a geographically*
35 *isolated community that is inhabited and has existed for at least*
36 *50 years.*

37 ~~(b) Upon the next revision of its general plan, and thereafter~~
38 ~~upon each revision of its housing element made pursuant to Section~~

39 *(b) Upon the next revision of its housing element, pursuant to*
40 *Section 65588, the legislative body of a city or county shall review*

1 and update one or more elements of its general plan as necessary
2 ~~to include data and analysis, goals, policies, and objectives, and~~
3 ~~feasible implementation measures to address the presence of~~
4 *include an analysis, based on available data and analysis of the*
5 *presence of* unincorporated island, fringe, or legacy communities
6 inside or near its boundaries. The updated general plan shall include
7 all of the following:

8 (1) In the case of a city, an identification of each unincorporated
9 island or fringe community, ~~in or adjacent to~~ *within* the city's
10 sphere of influence. In the case of a county, an identification of
11 each legacy community within the boundaries of the county, *but*
12 *not including any area within the sphere of influence of any city.*
13 This identification shall include a description of the community
14 and a map designating its location.

15 ~~(2) For each identified community, an analysis of all of the~~
16 ~~following:~~

17 ~~(A) The extent to which households in the community lack~~
18 ~~access to sanitary sewer service.~~

19 ~~(B) The extent to which households in the community lack~~
20 ~~access to safe drinking water.~~

21 ~~(C) The extent to which the community lacks one or more of~~
22 ~~the following:~~

23 ~~(i) Paved roads.~~

24 ~~(ii) Storm drainage.~~

25 ~~(iii) Sidewalks.~~

26 ~~(iv) Street lighting.~~

27 ~~(D) The number of households within one-quarter of a mile of~~
28 ~~public transit.~~

29 ~~(E) The number of housing units that are in substandard~~
30 ~~condition.~~

31 ~~(F) The number of households paying more than 30 percent of~~
32 ~~their income toward housing.~~

33 ~~(G) The number of households in overcrowded housing.~~

34 ~~(3) An analysis of the city's or county's current programs and~~
35 ~~activities to address the conditions or deficiencies described in~~
36 ~~paragraph (2), and an identification of any constraints to addressing~~
37 ~~those conditions or deficiencies. The analysis shall evaluate the~~
38 ~~annexation of any identified island or fringe communities.~~

39 ~~(4) A statement setting forth the city's or county's specific,~~
40 ~~quantified goals for eliminating or reducing the conditions or~~

1 deficiencies described in paragraph (2) and found to be present in
2 an unincorporated island, fringe, or legacy community within or
3 proximate to the boundaries of the city or county.

4 (5) ~~A set of feasible implementation measures designed to carry~~
5 ~~out the goals described in paragraph (4), including an identification~~
6 ~~of resources and a timeline of actions.~~

7 (e) ~~After the initial revision of its general plan pursuant to this~~
8 ~~section, on or before the due date for the next revision of its~~

9 (2) *For each identified community, an analysis of water,*
10 *wastewater, stormwater drainage, and structural fire protection*
11 *needs or deficiencies, and, if appropriate, sidewalks and street*
12 *lighting.*

13 (3) *An analysis of resources and a timeline of actions.*

14 (c) *On or before the due date for the next revision of its housing*
15 *element, the planning agency shall review, and if necessary amend,*
16 *its general plan to update the analysis, goals, and actions required*
17 *by this section.*

18 SEC. 6. *Section 56375 of the Government Code is amended to*
19 *read:*

20 56375. The commission shall have all of the following powers
21 and duties subject to any limitations upon its jurisdiction set forth
22 in this part:

23 (a) (1) To review and approve or disapprove with or without
24 amendment, wholly, partially, or conditionally, proposals for
25 changes of organization or reorganization, consistent with written
26 policies, procedures, and guidelines adopted by the commission.

27 (2) The commission may initiate proposals by resolution of
28 application for any of the following:

29 (A) The consolidation of a district, as defined in Section 56036.

30 (B) The dissolution of a district.

31 (C) A merger.

32 (D) The establishment of a subsidiary district.

33 (E) The formation of a new district or districts.

34 (F) A reorganization that includes any of the changes specified
35 in subparagraph (A), (B), (C), (D), or (E).

36 (3) A commission may initiate a proposal described in paragraph
37 (2) only if that change of organization or reorganization is
38 consistent with a recommendation or conclusion of a study
39 prepared pursuant to Section 56378, 56425, or 56430, and the

1 commission makes the determinations specified in subdivision (b)
2 of Section 56881.

3 (4) A commission shall not disapprove an annexation to a city,
4 initiated by resolution, of contiguous territory that the commission
5 finds is any of the following:

6 (A) Surrounded or substantially surrounded by the city to which
7 the annexation is proposed or by that city and a county boundary
8 or the Pacific Ocean if the territory to be annexed is substantially
9 developed or developing, is not prime agricultural land as defined
10 in Section 56064, is designated for urban growth by the general
11 plan of the annexing city, and is not within the sphere of influence
12 of another city.

13 (B) Located within an urban service area that has been delineated
14 and adopted by a commission, which is not prime agricultural land,
15 as defined by Section 56064, and is designated for urban growth
16 by the general plan of the annexing city.

17 (C) An annexation or reorganization of unincorporated islands
18 meeting the requirements of Section 56375.3.

19 (5) As a condition to the annexation of an area that is
20 surrounded, or substantially surrounded, by the city to which the
21 annexation is proposed, the commission may require, where
22 consistent with the purposes of this division, that the annexation
23 include the entire island of surrounded, or substantially surrounded,
24 territory.

25 (6) A commission shall not impose any conditions that would
26 directly regulate land use density or intensity, property
27 development, or subdivision requirements.

28 (7) The decision of the commission with regard to a proposal
29 to annex territory to a city shall be based upon the general plan
30 and rezoning of the city. When the development purposes are not
31 made known to the annexing city, the annexation shall be reviewed
32 on the basis of the adopted plans and policies of the annexing city
33 or county. A commission shall require, as a condition to
34 annexation, that a city prezone the territory to be annexed or present
35 evidence satisfactory to the commission that the existing
36 development entitlements on the territory are vested or are already
37 at build-out, and are consistent with the city's general plan.
38 However, the commission shall not specify how, or in what
39 manner, the territory shall be rezoned.

1 (8) *A commission shall not approve an annexation to a city of*
2 *any territory where there exists a disadvantaged inhabited*
3 *community that is contiguous to the area of proposed annexation,*
4 *unless the annexation application includes a separate application*
5 *to annex the disadvantaged unincorporated inhabited territory to*
6 *the subject city.*

7 (b) With regard to a proposal for annexation or detachment of
8 territory to, or from, a city or district or with regard to a proposal
9 for reorganization that includes annexation or detachment, to
10 determine whether territory proposed for annexation or detachment,
11 as described in its resolution approving the annexation, detachment,
12 or reorganization, is inhabited or uninhabited.

13 (c) With regard to a proposal for consolidation of two or more
14 cities or districts, to determine which city or district shall be the
15 consolidated successor city or district.

16 (d) To approve the annexation of unincorporated, noncontiguous
17 territory, subject to the limitations of Section 56742, located in the
18 same county as that in which the city is located, and that is owned
19 by a city and used for municipal purposes and to authorize the
20 annexation of the territory without notice and hearing.

21 (e) To approve the annexation of unincorporated territory
22 consistent with the planned and probable use of the property based
23 upon the review of general plan and rezoning designations. No
24 subsequent change may be made to the general plan for the annexed
25 territory or zoning that is not in conformance to the rezoning
26 designations for a period of two years after the completion of the
27 annexation, unless the legislative body for the city makes a finding
28 at a public hearing that a substantial change has occurred in
29 circumstances that necessitate a departure from the rezoning in
30 the application to the commission.

31 (f) With respect to the incorporation of a new city or the
32 formation of a new special district, to determine the number of
33 registered voters residing within the proposed city or special district
34 or, for a landowner-voter special district, the number of owners
35 of land and the assessed value of their land within the territory
36 proposed to be included in the new special district. The number
37 of registered voters shall be calculated as of the time of the last
38 report of voter registration by the county elections official to the
39 Secretary of State prior to the date the first signature was affixed
40 to the petition. The executive officer shall notify the petitioners of

1 the number of registered voters resulting from this calculation.
2 The assessed value of the land within the territory proposed to be
3 included in a new landowner-voter special district shall be
4 calculated as shown on the last equalized assessment roll.

5 (g) To adopt written procedures for the evaluation of proposals,
6 including written definitions consistent with existing state law.
7 The commission may adopt standards for any of the factors
8 enumerated in Section 56668. Any standards adopted by the
9 commission shall be written.

10 (h) To adopt standards and procedures for the evaluation of
11 service plans submitted pursuant to Section 56653 and the initiation
12 of a change of organization or reorganization pursuant to
13 subdivision (a).

14 (i) To make and enforce regulations for the orderly and fair
15 conduct of hearings by the commission.

16 (j) To incur usual and necessary expenses for the
17 accomplishment of its functions.

18 (k) To appoint and assign staff personnel and to employ or
19 contract for professional or consulting services to carry out and
20 effect the functions of the commission.

21 (l) To review the boundaries of the territory involved in any
22 proposal with respect to the definiteness and certainty of those
23 boundaries, the nonconformance of proposed boundaries with lines
24 of assessment or ownership, and other similar matters affecting
25 the proposed boundaries.

26 (m) To waive the restrictions of Section 56744 if it finds that
27 the application of the restrictions would be detrimental to the
28 orderly development of the community and that the area that would
29 be enclosed by the annexation or incorporation is so located that
30 it cannot reasonably be annexed to another city or incorporated as
31 a new city.

32 (n) To waive the application of Section 22613 of the Streets and
33 Highways Code if it finds the application would deprive an area
34 of a service needed to ensure the health, safety, or welfare of the
35 residents of the area and if it finds that the waiver would not affect
36 the ability of a city to provide any service. However, within 60
37 days of the inclusion of the territory within the city, the legislative
38 body may adopt a resolution nullifying the waiver.

39 (o) If the proposal includes the incorporation of a city, as defined
40 in Section 56043, or the formation of a district, as defined in

1 Section 2215 of the Revenue and Taxation Code, the commission
2 shall determine the property tax revenue to be exchanged by the
3 affected local agencies pursuant to Section 56810.

4 (p) To authorize a city or district to provide new or extended
5 services outside its jurisdictional boundaries pursuant to Section
6 56133.

7 (q) To enter into an agreement with the commission for an
8 adjoining county for the purpose of determining procedures for
9 the consideration of proposals that may affect the adjoining county
10 or where the jurisdiction of an affected agency crosses the boundary
11 of the adjoining county.

12 ~~(6)~~

13 *SEC. 7.* No reimbursement is required by this act pursuant to
14 Section 6 of Article XIII B of the California Constitution because
15 a local agency or school district has the authority to levy service
16 charges, fees, or assessments sufficient to pay for the program or
17 level of service mandated by this act, within the meaning of Section
18 17556 of the Government Code.